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ATTORNEY DOCKET NO. 14114.0343U2  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
	)	
Carlone <i>et al.</i>	)	Art Unit: 1645
	)	
Application No. 09/623,038	)	Examiner: Devi, Sarvamangala JN
	)	
For: EPITOPE PEPTIDES IMMUNOGENIC	)	Confirmation No. 5598
AGAINST <i>STREPTOCOCCUS</i>	)	
<i>PNEUMONIAE</i>	)	

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW IMPROPER  
HOLDING OF ABANDONMENT**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.  
Customer Number 52488

Sir:

Pursuant to 37 C.F.R. § 1.181 and MPEP § 711.03(c)I, Applicants hereby petition for withdrawal of the holding of abandonment communicated in the Notice of Abandonment mailed April 25, 2006. Applicants submit that the Notice of Abandonment was issued in error. The Notice of Abandonment indicates that the present application was abandoned because: Applicants failed to timely file a proper reply to the Office letter mailed on October 7, 2005. Applicants will hereby show that a Notice of Appeal and Request for a three month Extension of Time mailed to the United States Patent & Trademark Office (PTO) on April 7, 2006; therefore, Applicants submit that the Notice of Abandonment for failure to timely file a proper reply to the Office letter mailed on October 7, 2005, was issued in error.

**Statement of Facts**

Applicants received final Office Action dated October 7, 2006 from the PTO on October 11, 2006. Applicants timely submitted a Notice of Appeal with a three month Request for Extension of Time to the Office Action on April 7, 2006. The next correspondence Applicants received from the PTO was a Notice of Abandonment dated April 25, 2006. The notification stated that Applicants failed to timely file a proper reply to the Office letter mailed on October 7, 2005. Applicants hereby submit a copy of the original date stamped postcard mailed April 7, 2006 with the Notice of Appeal, a copy of the Notice of Appeal with certificate of mailing dated April 7, 2006, and a copy of the Request for Extension of Time with certificate of mailing dated April 7, 2006. Also submitted is a copy of applicants' law firm's PTO Filing Recordation Sheet showing the mailing of the Notice of Appeal, Request for Extension of Time and appropriate fees on April 7, 2006. In view of these showings, Applicants believe withdrawal of the holding of abandonment would be proper. Applicants respectfully request withdrawal of the holding of abandonment in the present application.

Favorable consideration of this Petition is earnestly solicited.

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It is believed that no fee is due with this Petition because Applicants contend that the application is not abandoned (see MPEP § 711.03(c)I). In the event that it is determined that a fee is due, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

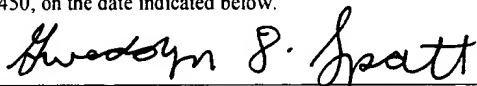


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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.



Gwendolyn D. Spratt

11-14-06

Date